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COSTA RICA

COSTA RICAN REPRESENTATIVE DEFENDS R. VESCO

[Open letter to the public by J. Raul Espinoza; San Jose, La Nacion, Spanish, 24 March 1973, p 28]

Yesterday we received the following communication for publication.

"Mr Robert L. Vesco continues to be the subject of attacks seemingly without explanation in terms of their insistent nature, and of newspaper reports which present a false picture of him personally and of his financial activities.

"Many people will ask what goals are pursued by those who act thus, and many people already have their own answer when it comes to certain individuals prominent in this persecution. But what many people do not know is that there is an agency of the federal government in the United States, called the Securities and Exchange Commission (abbreviated SEC) which will not forgive Mr Vesco for having removed from the U.S. stock market and its traditional crises substantial investments in companies which could invest, with better results in the long run, in countries which are more needy because of their effort at development, such as, for example, Costa Rica."

Monopolistic Interests

"The SEC claims to watch over the interests of the investors (who have been threatened by the stock fluctuations), but in reality it has served and continues to serve with all its strength and its demonstrated power the interests of the large companies which make up the U.S. monopolies, which are directly and harshly affected by the financial trend represented by Mr Vesco and other investing enterprises. The SEC needs at all costs to avoid such 'bad examples,' and to do so it has, in addition to the control of the millions of dollars it is misusing,

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that terrible weapon which is, paradoxically, based on the principle of freedom of the press: these 'newspaper trials,' as Mr Vesco calls them, wherein the major communications media in the United States represent, when it so suits them and has been duly planned, a Machiavellian distortion of the fourth estate, through the synchronization of which it is possible to leave the most powerful financial interests or the most honest government leaders defenseless, if they are not prepared to buy writers or consciences.

"The SEC, as all the world can see, is encouraging this campaign in the United States, and it is picked up in the other countries, intentionally or otherwise, extending this pre-planned publicity."

The Legal Situation

"The SEC is not content with having brought a civil suit in a U.S. federal court for supposed technical violations of laws under the category 'civil fraud,' but is seeking to establish a basis for a criminal suit for supposed fraud to the detriment of the investors. In doing this, according to the American judicial procedures, it must first launch an administrative investigation of the crime and then, if there is an evidential basis, it is possible to file a criminal charge. It is in the final analysis on the basis of this real trial that blame or innocence is established."

The Supposed Fraud

"The SEC is perfectly well aware that the holders of IOS mutual funds were never the victims of the fraud they claim, in the amount of 224 million dollars, on the part of Mr Vesco and 41 other individuals and companies, but they have nonetheless allowed this time after time. They conceal the fact that the 'fraud' involves nothing more than the amount in dollars of the American stock sold during a period of time, without taking the redemptions and reinvestments in other stocks outside the United States or the assets deposited in banks, also outside the United States, as security in major banks, into account. The erroneous concepts of the SEC, carefully edited by 'journalistic lawyers,' despite the fact that there was no personal profit whatsoever to any of those charged, through the use of such phrases as 'benefiting personal interests and activities' have succeeded in confusing the newspapers, providing the basis for the use of such terms (in the newspapers) as 'plunder, swindle, and fraud.' The people of Costa Rica should know that the U.S. judge, Charles Stewart, whose duty it is to rule on the civil complaint submitted by the SEC, told the lawyer of that body 'it was not my

intention to insinuate that you did not proceed correctly. I am simply pointing to the obvious reality that I have found no basis for what you claim."

Confusion of the Terms

"The vain effort of the SEC in the civil suit led it to think of the administrative investigation of a possible criminal charge, a more scandalous matter, and someone in Costa Rica who seems to have been ill informed has stated publicly that the Attorney General of the United States, Mr Richard G. Kleindinst, has filed criminal charges against Robert L. Vesco, and the undersigned was obliged to issue a denial, also publicly, because this is not the truth. Now that same individual has just 'confirmed' that false report, stating it has been established that a 'criminal investigation' is under way, something which is quite the opposite of what was claimed, but seems to be the same.

"There is a universal principle to the effect that everyone is innocent until proved guilty, and Mr Vesco, like so many other financial figures who have committed similar 'sins' against the U.S. monopolies defended by the SEC has every reason to calmly await the development of events in the courts, since the efforts of the SEC to prosecute the so-called 'civil fraud,' are practically a thing of the past. However, the SEC is continuing its campaign on all fronts, even going beyond the boundaries of the U.S."

Lack of Respect for Foreign Sovereignty

"The worthy people of Costa Rica deserve this simple but clear explanation, as clear and obvious as the boldness of the SEC in its recent disrespect for the legislative assembly, when it flamboyantly issued a summons to a citizen who was entirely properly accepting the invitation of the commission appointed on mutual fund activities, a commission which is certainly using the documentation provided by the SEC itself. It is obvious that the true purpose of the SEC is to achieve 'extraterritorial' jurisdiction, or sufficient influence, but on this occasion the legislators on the commission reacted in worthy fashion, protesting this interference to the American Embassy.

"The SEC officials know very well that the international norms in general use among states dictate the use in such cases of rogatory commissions ('letter rogatoria,' United States Code, Title 28, Section 1781, b), 2) and the Federal Rules of Civil Procedure, Rule 28' and amendments thereto), based on principles which clearly indicate that official communications

from the United States courts must be carried out abroad through rogatory commissions or letters, through the proper diplomatic channels."

U.S. Criticism of the SEC

"The display of power on the part of the SEC, inside and outside its jurisdiction is so impressive that it was necessary to appoint an advisory commission on policies and practices for the observance of laws (Advisory Committee on Enforcement Policies and Practices), made up of economists who are stock market experts, including Messrs John Wells, Manuel Cohen, and Ralph Demler, for the purpose of studying its attitudes. The result announced in June of 1972 was an opinion harshly criticizing the SEC for its essential devotion to the defense of the interests of the U.S. monopolies, above and beyond the interests of the stockholders. In the study released by this committee, it was stated expressly that the proceedings of the SEC revealed 'an abuse of the discretionary power granted to the members entrusted with the task of watching for technical violations' and the members recommended 'procedures in order to correct these abuses.'

"These were merely recommendations. The SEC has ignored these admonitions and when the reader, listener, or televiewer in Costa Rica reads or hears spectacular reports about Mr Vesco, or about other physical or juridical persons, involving similar references, he should ask himself once again honestly to what point these dark interests of the SEC are promoting and encouraging the campaign of slander launched some time ago to prevent the legitimate companies in the United States or other countries with investments and stocks in the United States from turning their eyes to countries which, like those in Latin America, need such investments for their development with more promising prospects. These are investments which in the final analysis are also more just, because many millions of dollars come precisely from these same countries which need them so much.

"The function of the SEC, which is in reality that of the American trusts, is to seek to surprise and exert open or tacit pressure in all sectors, not even halting at frontiers or concerned with the sovereignty of others, because what the U.S. economic might has at stake is great."

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Mr Vesco's Position

"Mr Vesco does not want to engage in a polemic outside the courts, particularly if he finds himself in a defenseless position in a thousand respects, because of what has been explained above.

"Mr Vesco appeals, through this means, to the intelligence and intuition of the Costa Rican people, who are already accustomed to assessing similar campaigns and attitudes like those set forth in all their dimensions, attitudes which basically are designed to hinder their normal and merited development.

"Mr Vesco, once again, reiterates that he has at all times had, does have and will continue to have the greatest and most profound respect for the exemplary democracy of Costa Rica, for its institutions, its laws, and its public officials, as he has for the entire nation, but he has found it necessary, in view of the stubborn attacks of which he is the victim, to issue a warning once again in this fashion against the true game being played in the countries in the process of development by powerful forces, in the service of such dark interests as we have explained.

"J. Raul Espinosa
Representative of Mr Vesco
in Costa Rica."

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